

# Kane County Local Rule

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## II. CIVIL PROCEEDINGS

### ARTICLE 6. PROVISIONS APPLICABLE TO ALL CIVIL DIVISION CASES

#### 6.00 APPLICABILITY OF RULES

- (a) Except where clearly indicated otherwise, the rules contained in this Article 6 shall be applicable to all cases assigned to the Civil Division, including but not limited to cases designated as follows: Law "LA", Law Medium "LM", Arbitration "AR", Small Claims "SC", Chancery "CH", Probate "PR", Miscellaneous Remedy "MR", Municipal Corporations "MC", and Tax "TX" cases.
- (b) Rules contained in Article 6 shall be read in concert with applicable rules contained in other Articles of the Local Rules, the Illinois Supreme Court Rules, and the Illinois Code of Civil Procedure.

#### 6.01 COURTROOM AND CASE ASSIGNMENTS

- (a) Courtroom designations, assignment of judges, and case categories shall be determined by General Order issued by the Chief Judge.
- (b) In the event the judge assigned to a particular case determines upon motion of one of the parties, or upon his or her own motion, that the case should be assigned to a different courtroom due to jurisdictional amounts, subject matter, type of remedy or relief requested, the case shall be transferred to the Presiding Judge of the Civil Division for reassignment to an appropriate courtroom.

#### 6.02 CIVIL DIVISION ADMINISTRATION

- (a) The administrative office for Civil Division judges is located at the Kane County Courthouse in room 360. The Civil Division telephone number is 630-232-3441 and the email is CivilDivision@16thCircuit.IllinoisCourts.gov.
- (b) Judges in the respective Civil Division courtrooms may promulgate their own courtroom procedures consistent with these Local Rules in the form of a standing order approved by the Presiding Judge of the Civil Division. Standing orders will be posted in the Judge's courtroom and copies will be available in the Civil Division administrative office.
- (c) All correspondence including courtesy copies of motions or briefs (if allowed or requested by the assigned judge) intended for a Civil Division judge shall be directed to the Civil Division administrative office, which will then distribute to the assigned judge.
- (d) The Presiding Judge of the Civil Division shall review correspondence addressed to assigned judges to assure that ex-parte or otherwise improper correspondence is not delivered to the assigned judge. In the event correspondence is deemed ex-parte or

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improper, the Presiding Judge will notify the sender that the correspondence will not be delivered to the assigned judge, and the reasons for such action.

### **6.03 APPEARANCES, TIME TO PLEAD, WITHDRAWAL**

- (a) If a written appearance is filed, copies of the appearance shall be served in the manner required for the service of copies of pleadings upon other parties or attorneys.
- (b) An attorney shall file his written appearance or other pleading before he addresses the Court unless he is presenting a motion for leave to appear by intervention or otherwise.
- (c) A party who appears without having been served with summons is required to plead within the same time as if served with summons on the day he/she appears.
- (d) An attorney may not withdraw his/her appearance, whether full appearance or limited scope appearance, without complying with the written notice, motion, and hearing procedures set forth in Supreme Court Rule 13.

### **6.04 ASSIGNMENT OF CASES FOLLOWING VOLUNTARY DISMISSAL**

Upon reinstatement or re-filing of cases that have previously been voluntarily dismissed or non-suited, including but not limited to cases involving the same or similar parties and subject matter, the Circuit Clerk shall assign the case to the same courtroom or judge assigned to the dismissed case at the time of voluntary dismissal or non-suit.

### **6.05 MOTIONS FOR SUBSTITUTION OF JUDGE**

- (a) Motions for substitution of a judge as a matter of right in civil cases pursuant to 735 ILCS 5/2-1001(a) (2) shall be heard by the judge to whom the case is assigned.
- (b) Motions for substitution of a judge as a matter of right must be filed not later than sixty (60) days before the designated trial date except where the judge to whom the case was originally assigned is succeeded by another judge within sixty (60) days of the trial.
- (c) Motions for substitution of a judge for cause pursuant to 735 ILCS 5/2-1001(a) (3) shall be heard initially by the judge to whom the case is assigned, and if appropriate, shall be transferred to the Presiding Judge of the Division or to the Chief Judge for assignment to another judge for the sole purpose of hearing the motion to substitute for cause.

### **6.06 MOTIONS FOR CONSOLIDATION OF CASES**

- (a) Motions for consolidation of cases will be brought on notice to all parties or attorneys of record in all cases involved in the proposed consolidation.
- (b) If the cases proposed for consolidation are within the same division of Court, the motion will be presented to the judge to whom the oldest numbered case is assigned.

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- (c) If cases proposed for consolidation are in different divisions of the Court, the motion will be presented to the assigned judge in the division being requested to receive the consolidated cases.
- (d) Unless good cause is shown, cases will be consolidated into the oldest case.

### **6.07 CLERK'S NOTICE: DISMISSAL FOR WANT OF PROSECUTION**

Within ten (10) days of the entry of an order of dismissal for want of prosecution the Circuit Clerk shall send notice of the dismissal by regular U.S. mail to all attorneys of record and all unrepresented parties who have filed a pleading or appearance at their last known address indicated in the file. A copy of the notice, with the Clerk's certificate of mailing, shall be placed in the court file.

### **6.08 DISMISSAL FOR LACK OF ACTIVITY**

If a case other than a Small Claims (SC) case has no order entered for a period of six (6) months and has no future date, the Circuit Clerk shall send notice to the attorneys of record and any unrepresented party who has filed a pleading or an appearance and provided a mailing address, that the case will be called on a date certain at which time it may be dismissed except for good cause shown.

### **6.09 PLEADINGS TO BE READILY COMPREHENSIBLE**

- (a) If a pleading contains multiple counts or affirmative defenses, each count or defense shall bear a concise title stating the theory of liability or defense. If the pleading is filed on behalf of, or against, multiple parties and all such parties are not asserting the same claims or defenses as to all opposing parties, the title of each count or defense shall also concisely designate the subgroup of parties to which it pertains.
- (b) If incorporation of facts by reference to another pleading or to another part of the same pleading permitted by Supreme Court Rule 134 will render a pleading not readily comprehensible, the facts shall be re-alleged verbatim.
- (c) The Court may order consolidation of the pleadings into one finished comprehensible set.
- (d) Nothing in Rule 6.09 is intended to abridge or conflict with 735 ILCS 5/2-603 Code of Civil Procedure.
- (e) All pleadings, except in personal injury actions, must request specific remedies the party believes it should receive from the court, including alternative remedies. Every count in every complaint and counterclaim must set forth a specific remedy requested. 735 ILCS 5/2-604.2.

### **6.10 MOTIONS GENERALLY**

- (a) Every motion shall identify in its title or introductory paragraph the particular relief sought together with the section of the Code of Civil Procedure under which the motion is brought.

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- (b) Pleading motions shall not be combined with fact motions except as permitted by 735 ILCS 5/2-619.1 of the Code of Civil Procedure. Improperly combined motions may be stricken by the Court without hearing.
- (c) The Court may decline to hear any motion that has not been previously scheduled for hearing on the Court's calendar. This rule does not apply to emergency motions.
- (d) Written notice of hearing of a motion shall be given by the party requesting the hearing to all attorneys or self-represented parties who have appeared and have not been held in default for failure to plead. The notice of hearing shall designate the judge to whom the motion will be presented, the title and case number of the action, the date, time, and courtroom in which the motion will be presented. A copy of the motion, any papers to be presented with the motion and proof of service shall be served with the notice.
- (e) Notices of hearing shall comply with Supreme Court Rules 11, 12, 13, and 131, and the following times of notice shall be observed:
  - (1) Notice by personal service shall be made by 4:00 p.m. at least two (2) court days before the scheduled hearing.
  - (2) Notice by email (in the case of a self-represented litigant, provided he/she has designated an email address pursuant to SCR 11 and 131), or facsimile transmission (provided the party or attorney has consented to facsimile service pursuant to SCR 11) shall be made by 4:00 p.m. no later than three (3) court days preceding the scheduled hearing.
  - (3) Notice by mail shall be deposited in the mail with the U.S. Postal Service and postmarked at least five (5) court days before the scheduled hearing.
  - (4) Notice by third party commercial carrier shall be deposited with the carrier no later than 4:00 p.m. at least three (3) court days preceding the scheduled hearing.
  - (5) Notice by delivery under SCR 11(c)(2)(ii) shall be made by 4:00 p.m. at least three (3) court days preceding the scheduled hearing.
- (f) Any party may schedule a motion for hearing, but the burden of calling for hearing or scheduling or setting any motion previously filed is on the party making the motion.
- (g) Any motion not scheduled for hearing and heard by the court within sixty (60) days from the date it was filed will be deemed a nullity and may be stricken without notice. Any motion not presented or supported by the moving party when called for hearing upon notice may be stricken or denied on the merits, in the Court's discretion.

### **6.11 PARTICULAR MOTIONS**

- (a) All case or claim dispositive motions, other than those arising during trial, will be filed and noticed for setting no later than ninety (90) days before the designated trial date except by leave of court upon good cause shown.

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- (b) All motions for leave to file counterclaims, actions over, contribution actions, and third-party complaints must be filed no later than ninety (90) days before the designated trial date. No such filing will be construed to compel the Court to continue the trial date or impair the Court's authority to sever such actions.

### **6.12 CONTESTED MOTIONS**

- (a) Any motion which is opposed may be heard at the end of the Court's call or at such other time designated by the Court.
- (b) Any writing in support of, or in opposition to, a motion shall be filed and served upon the opposing party.
- (c) No motion, or supporting or opposing brief, will exceed ten (10) pages in length except for good cause shown and with prior leave of court.

### **6.13 EMERGENCY MOTIONS AND EMERGENCY RELIEF**

- (a) Application: If emergency relief is requested, application will be made to the assigned judge. If the assigned judge is unavailable, application will be made to the Presiding Judge of the Civil Division or any judge designated by the Presiding Judge. If no judge in the Civil Division is available, then application will be made to the Chief Judge or to a judge designated by the Chief Judge. Each application for emergency relief shall be accompanied by an affidavit by the movant, or certification by the movant's attorney, stating the reason the relief is necessary on an emergency basis. If the request for emergency relief is made without notice, except as permitted by law, the affidavit or certification shall state what attempts have been made to notify opposing parties or their counsel of the request.
- (b) Ex-Parte and Emergency Motions: Every complaint or petition brought during court hours requesting an ex-parte order for the appointment of a receiver, temporary restraining order, preliminary injunction, or any other emergency relief will be filed with the Circuit Clerk before application to the Court for the order.
- (c) Emergency motions and motions which by law may be made ex-parte may, in the discretion of the court, be heard without requiring notice of the motion for hearing. Emergency motions shall, to the extent possible, be given precedence for hearing by the Court.
- (d) Counsel shall use every reasonable effort to notify opposing counsel or parties unless otherwise provided by law.
- (e) If the Court determines that the matter does not qualify as an emergency, an order so finding shall enter and the matter may be scheduled on the regular call. A party or attorney responding to a motion, presented as an emergency, but found not to qualify as an emergency, may be entitled to related costs and/or fees.

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- (f) **Notice after hearing:** If a motion is heard without prior notice under this rule, written notification of the hearing of the motion showing the caption and case number of the matter, the name of the judge who heard the motion, the date of the hearing, along with a copy of the motion and the order entered by the court at the hearing shall be served by the party or attorney obtaining the order upon all parties not found by the Court to be in default for failure to appear and/or plead, and proof of service thereof shall be filed with the Circuit Court Clerk within two (2) days after the hearing. Notice shall be given in the manner and to the persons required by Supreme Court Rules 11 and 12.

### 6.14 PETITIONS FOR PLEADINGS UNDER SPECIAL CIRCUMSTANCES

(a) **Fictitious Names:**

- (1) Upon motion and for good cause shown, the parties may appear under fictitious names, as provided by Illinois statute 735 ILCS 5/2-401.
- (2) Unless otherwise required by law, a motion to initially commence an action under a fictitious name may be presented without prior notice to a Civil Division judge. A copy of the proposed complaint or other pleading must be attached. If approved by the judge, the order approving shall be transmitted immediately, by the courtroom clerk, to the case filing department of the Circuit Clerk, and the petitioner must immediately proceed to file the action.
- (3) A petition to file any other pleading under a fictitious name in an already pending case shall be heard upon proper notice as required by law.

(b) **Death of a Party:**

- (1) If a person entitled to bring an action dies before the expiration of the time limited for the commencement thereof, and the cause of action survives; or if a person against whom an action may be brought dies before the expiration of the time limited for the commencement thereof, and the cause of action survives, and is not otherwise barred, action shall be commenced pursuant to applicable Illinois statute 735 ILCS 5/13-209.
- (2) A petition to appoint a special representative for the deceased for the purpose of prosecuting the action may be presented without prior notice to a Civil Division judge. A copy of the proposed complaint or other pleading must be attached. The order of appointment of the special representative shall be transmitted immediately, by the courtroom clerk to the case filing department of the Circuit Clerk, and the petitioner must immediately proceed to file the action.
- (3) A petition to appoint a special representative for the deceased person for the purpose of defending the action shall be heard upon proper notice to those parties and or persons as required by law.

### 6.15 TELEPHONIC COURT PROCEEDINGS

Repealed and reserved per General Order 23-07, effective April 3, 2023.

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### 6.16 CASE MANAGEMENT CONFERENCES

#### (a) Assignment by Circuit Clerk

- (1) In all Civil cases except those types listed in paragraph (f) below, the Circuit Clerk shall, on the date of filing, assign an automatic case management conference date on the call of the Judge assigned to the case within ninety (90) days from the date of filing. The Circuit Court Clerk shall affix notice of the date to the original pleading and to copies of the pleading to be served on the opposing party, in all cases listed in Section 6.16(f).
  - (2) In all Small Claims (SC), Eviction (EV) cases, the Circuit Clerk shall, on the date of filing, assign an automatic case management conference date on the call of the Judge assigned to the case within sixty (60) days of filing.
  - (3) In all Probate (PR) Decedent Estate cases, the Circuit Clerk shall, on the date of filing, assign an automatic case management conference date on the call of the Judge assigned to the case within fourteen (14) months from the date of filing.
  - (4) In all Family (FA, DC, DN) cases, the Circuit Clerk shall, on the date of filing, assign an automatic case management conference date on the call of the Judge assigned to the case within sixty (60) days from the date of filing and in accordance with Local Rule 14.01 directing the assignment of Family cases.
- (b) In the event an automatic case management conference falls on a date when the Court is not in session, the case will be set for the next court date.
- (c) Failure of the parties or their counsel to appear on an automatic case management conference day may result in dismissal for want of prosecution, default and/or other sanctions.
- (d) In all cases subject to Supreme Court Rule 218, the attorneys for the parties with the responsibility for trial of the case, shall, prior to the automatic case management conference and each conference thereafter, confer regarding matters set forth in Supreme Court Rule 218.
- (e) Failure to comply with Supreme Court Rule 218, local rules, or court orders pertaining to case management may result in sanctions being imposed against a party and/or attorney.
- (f) The following case categories are not included in the "Initial Case Management Conference" requirement under Supreme Court Rule 218(a):
- (1) Adoption (AD)
  - (2) Mental Health (MH)
  - (3) Miscellaneous Remedy (MR) (Involving Name Changes Only)
  - (4) Probate (PR) (Other than Decedent Estates)
  - (5) Tax (TX)

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- (g) In jury cases requiring arbitration (AR), a case management conference need not be held unless and until a rejection of the arbitration award is filed pursuant to Supreme Court Rule 93. A case management conference shall be held within forty-five (45) days of the rejection filing date.

### **6.17 DEFAULT JUDGMENTS; DISMISSALS FOR WANT OF PROSECUTION**

- (a) Failure of a served defendant or defendant's attorney to appear on the return date, to file a written appearance if applicable, or to appear in person or by an attorney at the time of trial, will result in a default being entered and a judgment for the amount claimed. Costs may be taken against such a defendant.
- (b) Proof of damages may be made by a verified complaint, affidavit, sworn witness testimony, or such other proof of claim as the court may determine to be sufficient. Verified complaints and affidavits must be signed by the plaintiff or plaintiff's agent, not by the plaintiff's attorney. Matters may be continued once for proof of damages. If the plaintiff or plaintiff's attorney is unable to prove damages after one continuance, a judgment will not be granted, except upon motion with notice to the defendant(s).
- (c) In the event a defendant or defendant's attorney appears on the return date or at the time of trial and the plaintiff or plaintiff's counsel fails to appear, the matter will be dismissed for want of prosecution.
- (d) In the event the Court determines it appropriate to reinstate a complaint previously dismissed or vacate any dismissal or default judgment, the Court may consider sanctions or appropriate terms as a condition of reinstatement.

### **6.18 GENERAL PROVISIONS OF DISCOVERY**

- (a) The sequence of discovery will comply with Supreme Court Rule 201, or if the case is assigned to the mandatory arbitration call, Supreme Court Rule 222. The obligations to comply with and complete discovery will not depend on the opponent's compliance unless otherwise ordered by the Court.
- (b) Discovery will be completed no later than sixty (60) days before the trial date unless otherwise authorized by the Court.

### **6.19 FILING OF DISCOVERY DOCUMENTS**

- (a) Depositions, interrogatories, document requests, responses thereto, and other discovery documents will not be filed with the Circuit Clerk, except as permitted by (b) or (c) below or pursuant to Supreme Court Rule 207. Requests to admit and responses thereto may be filed.
- (b) Discovery documents may be filed as necessary in support of motions or as otherwise ordered by the Court.

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- (c) Proof of Service of discovery and responses thereto may be filed with the Circuit Clerk and upon filing will be prima facie evidence that such documents were served or answered.

### 6.20 MOTIONS RELATING TO DISCOVERY

- (a) Motions to compel compliance with discovery rules or orders, to request relief, or protective orders relative to discovery rules or orders, shall be scheduled to assure hearing prior to any date(s) or deadlines that may be affected by the motions or requests.
- (b) Failure to bring timely motions or to comply with Supreme Court Rule 201(k) may preclude relief.

### 6.21 PHYSICIAN AND EXPERT FEES

- (a) In the instance of a conflict concerning reasonable compensation of a physician required to attend a deposition pursuant to Supreme Court Rule 204(c), or concerning the reasonable fee of an expert witness subpoenaed to appear at trial pursuant to the 735 ILCS 5/2-1101, a motion seeking a ruling on the reasonable compensation and response thereto will set forth under oath or verification to the extent known as to the following:
  - (1) The ordinary charges of the physician or expert for services rendered in his or her daily profession;
  - (2) The usual and customary charges of physicians or experts (with similar credentials) in the area;
  - (3) The level of skill possessed by the physician or expert as well as the time and effort expended and to be expended in the matter at issue;
  - (4) The hardship, if any, of advancing the compensation or fee or of testifying prior to receiving the compensation or fee; and
  - (5) Other relevant facts
- (b) A copy of the motion and the notice of the date and time set for hearing shall be served upon the physician or expert, unless the physician or expert is a controlled expert under Supreme Court Rule 213.

### 6.22 SETTLEMENT CONFERENCE

- (a) In actions in which a settlement conference is held, the attorney for the plaintiff and the attorney for the defendant shall prepare a written settlement conference memorandum and shall deliver a copy to the judge and all counsel of record at least seven (7) days in advance of the settlement conference. The attorney for each party attending the conference shall be familiar with the case and shall have ascertained in advance of the settlement conference the extent of settlement authority. The Court may order the trial attorneys to attend the settlement conference and may also order the parties, or a representative of defendant's insurer to attend the settlement conference.
- (b) Failure to abide by this rule may result in sanctions.

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### 6.23 FINAL PRE-TRIAL CONFERENCE

- (a) In all civil jury cases the Court will conduct a final pre-trial conference, typically scheduled for the week before jury selection commences, in order to review, hear and rule upon issues pertaining to the following motions, pleadings and documents which must be presented in writing, at said conference:
- (1) Routine Motions in *Limine*. These are to be commonplace or typical motions. Any motions in *limine* requiring examination of documents, affidavits or depositions, or involving issues requiring briefing, shall be filed, served, and scheduled so as to be heard by the Court no less than thirty (30) days in advance of trial.
  - (2) Statements of the Case. The plaintiff's attorney and any other counsel, who desires, will prepare and submit to the Court and to each opposing party a Statement of the Case for use at *voir dire*. The statement will include the time, date, and location of the alleged transaction or occurrence giving rise to the lawsuit; a brief description of the alleged transaction or occurrence; the name and city of residence (or business) of each of the parties involved and of their attorneys; and a list of the names and residences of witnesses whom the parties intend to call.
  - (3) Suggested *voir dire* questions. Questions to be asked by the court during *voir dire* may include, but are not limited to, topics or questions pertaining to unconventional or sensitive matters.
  - (4) Proposed jury instructions.
  - (5) Stipulations for use at trial must be signed by the parties or their attorneys and filed in the cause unless the Court directs otherwise.
  - (6) Objections made in evidence depositions for ruling by the Court, unless previously heard.
  - (7) Pre-marked exhibits which may be offered in evidence.
- (b) The trial attorney for each party shall be present at the final pre-trial conference.
- (c) Each party or representatives of a corporate party shall appear with their counsel any time the case is called for trial unless excused by prior order.

### 6.24 TRIALS

- (a) **Counsel to be present.** All attorneys responsible for conducting the trial shall appear in court at the time the case is called for trial. If any such attorney is unable to appear, alternate counsel shall present an affidavit of the responsible counsel setting forth the reasons the responsible counsel is unable to appear and what efforts, if any, have been made to contact all other responsible counsel about such failure to appear. Continuances in such circumstances shall only be allowed in extraordinary cases or cases of genuine, unforeseeable emergency.
- (b) **Continuances.** Continuances may be granted only by order of the Court. All motions for continuance shall be in writing and otherwise fully comply with the Code of Civil Procedure with Supreme Court Rule 231 and 138 and other applicable Supreme Court Rules or Local Rules.

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- (c) **Motions in *Limine*.** Motions in *limine* shall be in writing and shall be presented to the Court no later than the final pre-trial conference as provided in Local Rule 6.23, above. The Court, in its discretion, may consider motions in *limine* presented thereafter if it determines that the grounds became known subsequent to the deadline or for other good cause. All orders on motions in *limine* shall be reduced to writing by movant's counsel and presented to the Court for signature prior to *voir dire* examination in jury cases and opening statements in bench cases.
- (d) ***Voir dire* examination of prospective jurors.** Examination shall be conducted pursuant to Supreme Court Rule 234.
- (e) **Jury Instructions.** Any party submitting jury instructions shall provide the Court with two (2) copies of each instruction, typed, double-spaced on 8 ½" x 11" plain paper. One set of instructions shall be unmarked. The second set of instructions shall be marked in advance in the following manner; the party's designation and instruction number, the I.P.I. number or citation to legal authority supporting use of the instruction, and the words "**Given**", "**Objected**", "**Refused**", and "**Withdrawn**", followed by an underlined area after each such word to be checked by the Court at the time of ruling on instructions. The plaintiff shall be responsible for providing the Court prior to closing arguments with sufficient sets of copies of the instructions so that each juror will receive a copy.

### 6.25 POST-TRIAL MOTIONS AND SUPPLEMENTAL PROCEEDINGS TO ENFORCE JUDGMENTS

- (a) Post-trial motions brought pursuant to 735 ILCS 5/2-1202 or 735 ILCS 5/2-1203 shall be heard by the judge who presided over the trial, unless such judge is no longer serving by reason of retirement, death, illness or any other reason preventing a hearing by such judge within a reasonable time. In such event, the presiding judge of the Civil Division shall assign such matters to another judge for determination.
- (b) All supplemental proceedings to enforce money judgments, including but not limited to citations to discover assets shall be filed under the original case number and shall be heard by the judge currently assigned to the courtroom in which judgment was originally entered.
- (c) Notices of hearings on citations to discover assets, rules to show cause, and any other hearing where a writ or order of body attachment or warrant of arrest may be issued for a party's failure to appear after receipt of notice shall, in addition to the time, date, and place of hearing, include the following warning and notice in bold type: "**NOTICE: IF YOU FAIL TO APPEAR BEFORE THE COURT AT THE TIME AND PLACE SET FORTH ABOVE, YOU MAY BE TAKEN INTO CUSTODY AND HELD IN JAIL WITHOUT FURTHER NOTICE**"
- (d) The Circuit Clerk shall, upon request, issue a service citation to discover assets for service on the defendant or judgment creditor in the form specified in the Code of Civil Procedure 735 ILCS 5/2-1402 and the Supreme Court Rule 277.

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- (e) A citation to discover assets may be served by either personal service or certified mail in conformance with Supreme Court Rules 277 (c) and 105 (b).
- (f) Upon the respondent's appearance on the return date, he/she shall be sworn and examined subject to the discretion of the Court. Upon completion of the examination an order shall be entered dismissing the citation, unless the Court determines that it is necessary to continue the citation.
- (g) Orders continuing a citation must set forth specifically the reason for the continuance and what is required to complete the citation. Continuances merely to permit a judgment debtor to complete an installment payment schedule or otherwise satisfy the judgment will not be allowed.
- (h) If the citation respondent having been duly served fails to appear on the return date, a rule to show cause shall issue. No continuances in lieu of a rule will be granted, except where the Court determines it necessary to do so to protect the rights and interests of all parties to the proceedings.
- (i) Orders compelling respondent to make installment payments to be applied to the judgment must provide that the underlying citation is dismissed. Rules to show cause for the failure to comply with the terms of such a payment order shall issue only upon petition, with notice to the respondent at his/her last known address.

### **6.26 RULES TO SHOW CAUSE**

- (a) If a rule to show cause is returned not served, it may not be continued.
- (b) Alias rules may issue upon request of the plaintiff or judgment creditor in accordance with the following limitations:
  - (1) The first alias shall be returnable approximately thirty (30) days from the return date of the original rule.
  - (2) The second alias shall be returnable approximately sixty (60) days from the return date of the original rule.
  - (3) The third alias shall be returnable approximately ninety (90) days from the return date of the original rule.
  - (4) If the third alias is returned unserved, the supplementary proceeding will be dismissed with leave to reinstate upon showing that service can likely be obtained.
  - (5) The Court may require written proof of attempts to serve a rule or alias rule prior to issuance of any further alias rules.

### **6.27 ORDERS FOR BODY ATTACHMENT**

- (a) Upon the failure of the judgment creditor or citation respondent to appear after personal service of a rule to show cause (based on failure to appear on a properly served citation to discover assets) and the rule to show cause having included the warning language of Local Rule 6.25(c), the Court, in its discretion, may enter an order or writ of attachment with or without bond directing the Sheriff to arrest and have the respondent brought forthwith before the judge issuing the order, or rule to show cause why he/she should not be held in contempt of court.

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- (b) Except upon affidavit showing lack of knowledge of the description of the physical person sought to be attached, no orders for body attachment shall issue unless a physical description of the body is provided in the appropriate space on the order. The order shall also contain notation as to the total amount of judgment plus court costs presently owed by the judgment debtor.
- (c) Writs of attachment may not be issued for a judgment debtor's or a defendant's failure to appear on a rule to show cause based on failure to comply with an installment agreement.

### 6.28 RECEIVERS

- (a) **Appointments:** Appointments of Receivers shall be in accordance with 735 ILCS 5/2-415 and any other applicable statute or rule.
- (b) **Disqualifications:** Except as provided in (b) of this rule or any applicable statute, an appointment as receiver shall not be granted to an individual or to a corporation having a principal officer, who:
  - (1) Is related by blood or marriage to a party or attorney in the action;
  - (2) Is an attorney or of counsel for any party in the action;
  - (3) Is an officer, director, stockholder, or employee of a corporation the assets of which are in question;
  - (4) Stands in any relation to the subject of the controversy that would tend to interfere with the impartial discharge of his duties as an officer of the Court.
- (c) **Exceptions:** If the Court is satisfied that the best interests of the estate would be served, an individual or corporation otherwise disqualified under section (b) of this rule may be appointed as receiver by an order specifically setting forth the reasons for departing from the general rule. A receiver so appointed shall serve wholly without compensation, unless otherwise ordered by the court upon good cause shown.
- (d) **Attorneys for Receivers:** An attorney for the receiver shall be employed only upon order of the Court upon written motion of the receiver stating the reasons for the requested employment and naming the attorney to be employed.
- (e) **Inventories of Receivers:** No later than thirty (30) days after his/her appointment, the receiver shall file with the Court a detailed report and inventory of all property, real or personal, of the estate and designating the property within his/her possession or control. Unless the Court orders otherwise, the receiver shall file with the inventory a list of the then known liabilities of the estate.
- (f) **Appraisal for Receivers:**
  - (1) **Appraisers:** Appraisers for receivers may be appointed only upon order of the Court or agreement of the parties with the approval of the court.

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- (2) **Appraisal by Receiver:** If no appraisers are appointed, the receiver shall investigate the value of the property of the estate and show in the inventory the value of all items listed as disclosed by the investigation.

(g) **Reports of Receivers:**

- (1) **Time of Filing:** The receiver shall file the first report at the time of filing the inventory and additional reports annually thereafter. Special reports may be ordered by the Court and a final report shall be filed upon the termination of the receivership.
- (2) **Forms:** The Court may prescribe forms to be used for reports of a receiver.

(h) **Receivers' Bond:**

- (1) **Personal Sureties:** Bonds with personal sureties shall be approved by the Court. Unless excused by the court, sureties shall execute and file schedules of property in a form approved by the Court.
- (2) **Surety Companies:** Bond with a corporation or association licensed to transact business in this state as surety will be approved only if a current certified copy of the surety's authority to transact business in the state, as issued by the Director of Insurance, is on file with the Circuit Clerk and verified power of attorney or certificates of authority for all persons authorized to execute bonds for the surety is attached to the bond.